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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

345 COURTLAND STREET, N.E.
ATLANTA, GEORGIA 30365

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MAR 30 1990

BY TELECOPIER

Mr. Harold Reheis
Director
Environmental Protection Div.
Floyd Towers East
205 Butler St., S.E.
Atlanta, Ga.

Re: CERCLA §106 Order to ICP Chemical Group for Hazardous
Substances at Clark Brothers Warehouse, Albany, Georgia

Dear Mr. Reheis:

Enclosed is a copy of the CERCLA §106 Order we intend to send to the ICP Chemical Group to remove corroded and corroding drums of carbon tetrachloride and carbon disulfide stored at an Albany warehouse. This letter constitutes notice to Georgia DNR and the Environmental Protection Division of DNR, of this action.

Sincerely yours,

Patrick M. Tobin
Director
Waste Management Division

Encl.

cc: John Taylor, Ga. EPD

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

IN THE MATTER OF:

ICP Chemical Group Facilities
Clark Brothers Warehouse
Albany, Georgia,Mr. Richard Weinberg and
ICP Chemical Group, Inc.
3950 Long Beach Road
Island Park, N.Y. 11558,

Respondent.

)
)
)
) PROCEEDING UNDER SECTION
) 106(a) OF THE
) COMPREHENSIVE
) ENVIRONMENTAL RESPONSE,
) COMPENSATION, AND
) LIABILITY ACT OF 1980,
) 42 U.S.C. § 9606(a).)
) EPA Docket No.: 90-31-C
)
)ADMINISTRATIVE ORDERI. JURISDICTION

The following Order is issued on this date to Mr. Richard Weinberg and ICP Chemical Group, Inc. (Respondent), pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499). This Order is issued under authority delegated to the Administrator of the United States Environmental Protection Agency (EPA) by Exec. Order No. 12580 (January 23, 1987), 52 Fed. Reg. 2923 (January 29, 1987), and further delegated to the Regional Administrator of Region IV, EPA, and redelegated to the Director, Waste Management Division. Notice of the issuance of this Order has been given to the State of Georgia.

EPA has determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment due to the release or threat of release of hazardous substances as defined in Section 101(14) of CERCLA, as amended, 42 U.S.C. §9601(14), from the following location:

Clark Brothers Warehouse
939 Roosevelt Ave.
Albany, Georgia

This Order directs Respondents, Mr. Weinberg and/or ICP, to undertake action to protect the public and the environment from this endangerment.

II. FINDINGS OF FACT

For the purposes of this Order, EPA finds that:

- A. ICP purchased the carbon tetrachloride and carbon disulfide mixture on December 31, 1985, from Thomasville, Georgia, and had it shipped in metal containers on January 2, 1986, to the Clark Brothers Warehouse, Albany, Georgia, where it has remained to the present.
- B. ICP and Mr. Weinberg, since Mr. Weinberg is the President and sole shareholder of ICP, have received several telephone notifications since December 2, 1988, that these materials should be removed and properly disposed of, but have failed to take action to remove and properly dispose of those materials.
- C. An inspection by EPA personnel on March 29, 1990, disclosed that the carbon tetrachloride and carbon disulfide mixture stored in the Clark Brothers Warehouse has corroded through some of the containers and has evaporated and been released into the air outside the warehouse.
- D. Further corrosion and leakage from the containers may occur at any time.
- E. Carbon tetrachloride is a human carcinogen, is toxic by ingestion, inhalation, and skin absorption, and thus should not be released to the air breathed by the public and by members of the public doing business in the warehouse.
- F. Carbon disulfide is flammable and thus readily combusted, particularly since it is in containers that have corroded and continue to corrode and allow those substances to spill and evaporate. This presents a potential fire hazard.

III. CONCLUSIONS OF LAW

- A. There is an actual or threatened "release" of carbon tetrachloride and carbon disulfide within the meaning of §101(22) of CERCLA as amended, 42 U.S.C. § 9601(22).

- B. Carbon tetrachloride and carbon disulfide are "hazardous substances" within the meaning of §101(14) of CERCLA as amended, 42 U.S.C. §9601(14).
- C. The storage containers holding the hazardous substances are "facilities" as defined in Section 101(9) of CERCLA, as amended, 42 U.S.C. § 9601(9).
- D. Respondents are both "persons" as defined in Section 101(20) of CERCLA, as amended, 42 U.S.C. § 9601(20).

IV. DETERMINATION

Based on the foregoing Findings of Fact and Conclusions of Law, and the entire record of this proceeding, the Director of the Waste Management Division has determined that:

- A. There may be an imminent and substantial endangerment to the public health or welfare or the environment because of the actual or threatened release of the hazardous substances from the facilities.
- B. In order to protect the public health or welfare or the environment, it is necessary that action be taken to abate the release or threat of release of hazardous substances from the facilities.
- C. The actions required in this Order are consistent with the National Contingency Plan, 40 C.F.R. Part 300 et seq.

V. ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and Determinations, Respondent is hereby ordered and directed to undertake the following activities, pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a):

- A. Respondents shall initiate no later than ten (10) days after receipt of this Order, and shall complete within forty (40) days after receipt of this Order, the following measures which shall be undertaken at the direction of EPA through its On-Scene Coordinator (OSC):

1. By April 9, 1990, submit in writing to the OSC Mr. Don Rigger at EPA Region IV, 345 Courtland Street, Atlanta, Ga. 30365, a commitment to comply with this ORDER, and a brief narrative description of how the

containers of the named hazardous substances will be removed and properly disposed of;

2. By April 25, 1990, arrange for the transportation and disposal of the hazardous substances at a hazardous waste treatment, storage, or disposal facility approved for disposal of liquid hazardous waste, under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§6901 et seq. Prior written notice shall be given to EPA through its OSC Mr. Rigger concerning all phases of this disposal, including the name and address of the facility or facilities to which the hazardous substances will be transported.

3. By May 8, 1990, complete disposal of the hazardous substances at an approved RCRA facility.

- B. All activities undertaken by Respondents pursuant to this Order shall be performed in accordance with all applicable, relevant and appropriate federal, state, and local laws.
- C. Upon request by EPA, Respondents shall provide EPA with split samples of any samples collected and analyzed to obtain disposal approval by the owner or operator of the RCRA disposal facility in accordance with the requirements of this Order.
- D. Respondents shall provide access to the storage container facilities and their contents, to EPA and its employees, contractors, and consultants for the purposes of overseeing the implementation of this Order.
- E. All activities performed pursuant to this Order shall be under the direction and supervision of a qualified professional engineer or other qualified professional with expertise and experience in hazardous waste handling and disposal. Respondents shall notify EPA of the identity of such engineer or other professional and of any contractors and subcontractors to be used in the implementation of this Order in advance of their work with the facilities. EPA reserves the right to disapprove of any engineer or other professional selected by the Respondents.
- F. Respondents shall use quality assurance, quality control, chain-of-custody, and manifest procedures in accordance with the applicable EPA guidance throughout all activities. Respondents shall consult with EPA in planning, sample collection, analysis, and transportation and disposal of the hazardous substances

in the facilities. Respondents shall provide a written report to EPA by May 11, 1990, which certifies that all activities have been performed as approved by EPA.

- G. Respondents shall preserve all records developed pursuant to the implementation of this Order for a period of at least six (6) years following completion of all work conducted by Respondents pursuant to this Order.
- H. Notwithstanding compliance with the terms of this Order, Respondents may be required to take further actions as necessary to abate the endangerment posed by conditions at the facilities.
- I. In the event that the OSC determines that activities implemented by Respondents are not in compliance with this Order or that any other circumstances or activities are creating an imminent and substantial endangerment to the public health or welfare or the environment, the OSC may order Respondents to halt further implementation of this Order for such period of time as is necessary to abate the endangerment. In addition, EPA may carry out all activities pursuant to this Order and such other activities as it deems necessary and consistent with the NCP.

VI. RELATIONSHIP BETWEEN THE UNITED STATES AND RESPONDENTS

- A. Neither the United States nor any agency thereof shall be liable for any injuries or damages to persons or property resulting from acts or omissions of Respondents, his/its employees, agents, servants, trustees, successors, or assigns, or of any persons, including but not limited to firms, corporations, contractors, or consultants, engaged in carrying out activities pursuant to this Order, nor shall the United States or any agency thereof be held out as a party to any activities undertaken pursuant to this Order.
- B. All submittals and notifications to EPA pursuant to this Order shall be made to Mr. Don Rigger, On-Scene Coordinator, United States Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365 telephone number 404/347-3931.
- C. This Order shall apply to and be binding upon the Respondents, their agents, employees, successors, assigns, and contractors.

- D. Nothing herein shall constitute or be construed as a satisfaction or release from liability for Respondent, his/its agents, contractors, lessees, successors, or assigns, for any conditions or claims arising as a result of past operations or ownership of the facilities.
- E. Nothing herein shall constitute or be construed as special notice pursuant to Section 122(e) of CERCLA, 42 U.S.C. §9622(e), and this Order does not invoke the negotiation moratoria set forth in that subsection.

VII. EFFECTIVE DATE

This Order is effective upon receipt. All times for performance of response activities shall be calculated from that date.

VIII. NOTIFICATION OF INTENTION

With respect to the actions required above, you must notify EPA in writing within ten (10) calendar days of receipt of this Order of whether you intend to comply with the terms of this Order. If you do not notify EPA in writing within the specified time period, EPA may thereafter commence the response action under Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), or take action against you under Section 106 of CERCLA, 42 U.S.C. §9606.

IX. OPPORTUNITY TO CONFER

You may, within five (5) calendar days after receipt of this Order, request in writing a conference to discuss this Order and its applicability to you. At any conference held pursuant to your request, you may appear in person, and you may be represented by an attorney or other representative for the purpose of presenting any objections, defenses, or contentions regarding this Order. If you desire such a conference, please contact William R. Phillips, Assistant Regional Counsel, EPA Region IV, 345 Courtland Street, Atlanta, Georgia, 30365, telephone number 404/347-2641.

X. PENALTIES FOR NON-COMPLIANCE

Violation of this Order through failure or refusal to comply with any provision herein without sufficient cause, is enforceable pursuant to Sections 106(b) and 113(b) of CERCLA, 42 U.S.C. §§ 9606(b) and 9613(b). Failure to comply may also

subject Respondent to civil penalties of not more than \$25,000 per day and punitive damages in an amount three times the costs incurred by the United States as a result of such failure, as provided in Sections 106(b) and 107(c)(3) of CERCLA, 42 U.S.C. §§9606(b) and 9607(c)(3). Nothing herein shall preclude EPA from taking such other actions as may be necessary to protect the public health and welfare or the environment and recovering the costs thereof.

The United States Environmental Protection Agency:

BY: 

Patrick M. Tobin, Director
Waste Management Division
U.S. EPA - Region IV
345 Courtland Street, N.E.
Atlanta, Georgia 30365

Dated this 30th day of MARCH, 1990.